

Quarterly Overview of Asylum Case Law



Quarterly Overview of Asylum Case Law

Issue No 3/2026

September 2026



© European Union Agency for Asylum (EUAA), 2026

Neither the European Union Agency for Asylum (EUAA) nor any person acting on behalf of the EUAA is responsible for the use that might be made of the information contained within this publication.

Cover photo: © iStock/limeart ID 1227193799

Luxembourg: Publications Office of the European Union, 2026

PDF BZ-01-26-073-EN-N ISBN 978-92-9418-772-7 ISSN 2811-9606 doi 10.2847/8551078

Reproduction is authorised provided the source is acknowledged. For any use or reproduction of photos or other material that is not under the EUAA copyright, permission must be sought directly from the copyright holders.



Table of contents

1. Court of Justice of the European Union.....	7
<i>Non-refoulement</i> assessment in the judicial review of detention pending a return.....	7
Full scope of judicial review is not limited by national procedural autonomy and well-founded fear must be reasonably likely	8
Applicants subject to a decision on a Dublin transfer are entitled at a minimum to accommodation, food, clothing and daily expense allowances.....	9
Referrals to the CJEU	9
Belgium – Medical test mandated by a destination or transit country to enforce a return decision	9
Germany – Eligibility for temporary protection when Ukrainian nationals have resided in a third country for over 2 years prior to requesting protection in the EU	10
Germany – ‘Expiry’ of a return order when the person actually returns to their country of origin and their subsequent application is dismissed as inadmissible	10
Greece – The right to an effective remedy when a negative decision is notified electronically without verification of access or the exact time of access	11
Netherlands – Relevance in the examination of an application for international protection of a favourable decision in another Member State and the evidence submitted therein	11
Netherlands – Evaluating adequate care and the best interests of the child prior to issuing a return decision concerning an unaccompanied minor ¹²	
2. European Court of Human Rights	12
Family reunification of refugees	12
Weighting the prospect of re-entry in assessing the impact of expulsion and an entry ban on the right to family life	14
3. Highlights from national courts.....	15
EU Pact on Migration and Asylum	15
Germany and the Netherlands – Transitional provisions of the Asylum and Migration Management Regulation (AMMR)	15
Italy and Lithuania – Application of the border and accelerated procedures	16
Italy and Croatia – Obligation to reside in a designated reception centre during border procedures.....	16
Portugal – Constitutional review of the Pact’s provisions on the detention of children, screening and border procedures, and the absence of a suspensive effect for appeals.....	17





Access to the asylum procedure.....	18
Spain – Pushbacks (<i>rechazo en frontera</i>) in the North African exclaves of Ceuta and Melilla	18
Hungary – Authorities must refer a case to the asylum authority upon declaration of intent to apply for international protection during a removal.....	18
Administrative procedure.....	19
Belgium – Compliance with data protection regulations and the right to respect for private life when conducting remote interviews	19
Assessment of applications.....	19
Czechia, Germany, Norway and Slovakia – Russia: LGBTIQ applicants, political opinion and draft evasion.....	19
France and Czechia – Senegal: Particular social group (forced marriage, FGM/C and LGBTIQ applicants).....	21
France – Yemen: Particular social group (LGBTIQ applicants)	22
Switzerland – Afghanistan: Indiscriminate violence.....	22
France – Haiti: Indiscriminate violence.....	22
Austria and Cyprus – Iran: Indiscriminate violence	22
France – Mali: Indiscriminate violence.....	23
Latvia – Pakistan: Indiscriminate violence	23
Norway and Austria – Somalia: Indiscriminate violence	23
Latvia – Sudan: Indiscriminate violence	24
Bulgaria and Spain – Syria: Indiscriminate violence	24
Exclusion from international protection.....	25
Germany – Exclusion from subsidiary protection due to repeated serious legal violations posing a danger to the community or national security	25
Reception.....	25
Belgium – Applicants granted international protection in another Member State retain entitlement to reception conditions while they have a right to remain.....	25
Detention	26
Italy – Healthcare safeguards in detention centres	26
Italy – Detention under the Italy-Albania Protocol.....	26
Statelessness.....	27
Belgium and Spain – Access to the procedure and residence permits.....	27
Rights of beneficiaries of international protection	27
Netherlands and Spain – Revocation of international protection	27
Temporary protection	28
Bulgaria – Right to reception conditions and family life for children granted temporary protection.....	28





Resettlement and humanitarian admission	28
Germany – Constitutional review of the blanket revocation of humanitarian admission pledges for Afghan nationals holding a declaration of admission.....	28
Interplay of international protection with migration regimes	29
Spain – Incompatibility of exceptional residence permits on integration grounds with international protection applicant status	29

Disclaimer

The decisions and judgments presented in this edition of the “EUAA Quarterly Overview of Asylum Case Law, Issue No 3/2026” were pronounced from June to August 2026.

The summaries cover the main elements of the court’s decision. The full judgment is the only authoritative and accurate document. Please refer to the original source for the authentic text.

To reproduce or translate all or part of this quarterly overview in any format, and for information on introductory sessions to the Case Law Database or case law thematic presentations, please contact caselawdb@euaa.europa.eu

To subscribe to the quarterly overview, click [here](#)





1. Court of Justice of the European Union

Four judgments which are relevant to international protection were pronounced by the Court of Justice of the EU (CJEU) in the last quarter. In addition, six referrals to the CJEU for a preliminary ruling were made by courts in Belgium, Germany, Greece and the Netherlands.

***Non-refoulement* assessment in the judicial review of detention pending a return**

In [*DL v Minister van Asiel en Migratie \[Hardeker\]*](#) (C-182/26 PPU, 25 June 2026), the CJEU clarified that, in order to ensure the implementation of an effective removal policy, a return decision may identify several potential countries of destination, provided that it gives reasons of fact and law for considering each of them. The CJEU held that the detention of third-country nationals who do not cooperate with proceedings, including by hampering the determination of the country of destination, is permitted under Article 15(1)(b) of the Return Directive. Nonetheless, compliance with the principle of *non-refoulement* must be assessed in respect of all countries mentioned in the return decision. If the return decision does not contain such an assessment, the court reviewing the lawfulness of detention must examine *ex nunc* the risk of *refoulement* in all the countries mentioned in the return decision. That assessment concerns the lawfulness of the detention and is autonomous from that of the return decision, for which a separate appeal is available.

For continued detention to be justified by a reasonable prospect of a removal, it is sufficient that a removal to at least one of the identified countries is possible, provided that the other conditions of Article 15(1) are met; otherwise, the court must order the immediate release of the individual. Notably, the CJEU held that, when the individual is uncooperative in determining the country of destination, it is sufficient to rely on general information available for the judicial assessment to comply with the principle of *non-refoulement*.

The case is relevant because it provides guidance on the scope of the *non-refoulement* assessment by judicial authorities in situations where it is difficult to establish the applicant's country of destination and several countries are identified as potential countries of return. In a context where countries are considering unprecedented methods to manage migration,¹ this decision also clarifies that the Return Directive allows for the imposition of an obligation to return not only to the country of origin, but also to a transit country in accordance with readmission agreements or arrangements. Since the return decision must consider Articles 4 and 19 of the EU Charter, it does not, in itself, infringe the fundamental rights of the person. In relation to this, the UN Special Rapporteur on Torture recently reaffirmed the absolute and non-derogable character of the principle of *non-refoulement*, highlighting that *non-refoulement* assessments must consider also chain *refoulement*.²

¹ Council of Europe Committee of Ministers, [Chişinău Declaration, CM\(2026\)99-final](#), adopted on 15 May 2026.

² UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, [Position paper on non-refoulement and the prohibition of torture](#), 20 July 2026.



Full scope of judicial review is not limited by national procedural autonomy and well-founded fear must be reasonably likely

The question of whether a Member State can limit the scope and depth of a judicial review provided by a first instance court ruling on international protection needs of an applicant was the subject of two recent judgments by the CJEU. The legal issue was debated in the Netherlands, where according to the case law of the Council of State, only the minister may assess the credibility of an asylum claim, and the court may review it only somewhat cautiously, with the possibility to annul the decision and refer it back for re-examination. As in the case of [Torubarov](#) (C-556/17, 29 July 2019), in practice, this framework resulted in a back-and-forth of cases between the two authorities. To clarify the issue, the District Court of the Hague seated in Zwolle referred two cases to the CJEU on whether a remedy can be considered effective if the court ruling on the merits is not able to rule independently on the seriousness and credibility of the asylum claim, and whether the first instance appeal body can substitute the minister's assessment of credibility and risk with its own assessment, also on the basis of new evidence and publicly available information.

In [S v Minister van Asiel en Migratie \[Quotal\]](#) (C-198/25, 4 June 2026) and [PM and Others v Minister van Asiel en Migratie \[Ebilum\]](#) (C-440/25, 4 June 2026), the CJEU clarified that the definition of the scope and rigorousness of a judicial examination of an asylum rejection does not fall within the procedural autonomy of Member States. The CJEU rejected the argument of the Netherlands that courts must review decisions with an “appropriate degree of restraint” and held that Member States may not place constraints on the power of a court to rule on the international protection needs of an applicant. The CJEU reiterated the findings of its previous case law on the scope of Article 46(3) of the recast Asylum Procedures Directive (APD) and the terms ‘full’ and ‘ex nunc’ (see [Alheto](#), C-585/16, 25 July 2025; [Torubarov](#) and [Alace and Canpelli](#), C-758/24 and C-759/24, 1 August 2025). The CJEU concluded that courts of first instance are empowered to issue binding rulings on the credibility of the account and the plausibility of the applicant's fear of persecution or the real risk of serious harm upon a return, as well as on the merits of the application considering evidence submitted during the appeal.

These two judgments highlight that interpreting national law in conformity with EU law includes, in particular, the obligation for a national court to change its established case law if it is based on an interpretation of national law that is incompatible with EU law provisions that have direct effect. If a consistent interpretation is impossible, it must disapply national law.

Additionally, in [Ebilum](#), the court ruled on the meaning of a well-founded fear of being persecuted under Article 2(d) of the recast Qualification Directive (QD) and clarified the applicable standard of proof. Recognising the particular relevance of UNHCR documents and relying on the 2019 [Handbook on Procedures and Criteria for Determining Refugee Status](#), the court acknowledged that such a fear includes both a subjective and an objective dimension, and in so far as the subjective element is qualified by the words well-founded, refugee status must not be determined only by the applicant's frame of mind but must be based on an objective situation and individual assessment. The court also clarified that the standard of proof required for a well-founded fear is a “reasonable likelihood” that an applicant for international protection will be persecuted upon a return. Citing the EUAA Practical Guides on [Qualification for International Protection](#) (9 June 2026) and [Evidence and Risk Assessment](#) (17



January 2024), the CJEU noted that while a “mere possibility” is not sufficient to consider persecution reasonably likely, certainty should neither be required.

Applicants subject to a decision on a Dublin transfer are entitled at a minimum to accommodation, food, clothing and daily expense allowances

The CJEU clarified that even for applicants who are subject to an enforceable decision on a Dublin transfer, the standard of living remains the same as for other applicants for international protection and Member States cannot withdraw their clothing and daily expense allowance ([Landkreis Schweinfurt v FB](#), C-621/24, 4 June 2026). The judgment is relevant because, first, it serves as a reminder of the framework under which Member States may alter the provision of material reception conditions to applicants, strictly limited to cases provided in Articles 17(3), (4) and 20 of the recast Reception Conditions Directive (RCD).

Second, the judgment highlights that clothing and daily expense allowances are equally important as accommodation, food and personal care in guaranteeing a minimum subsistence level and an adequate standard of living for all asylum applicants, including those who are subject to a transfer decision. As regards the financial allowance, the court agreed with the [Advocate General opinion](#) that it provides applicants with a minimum level of autonomy and participation in the social and cultural life of the Member State where they reside, which contributes to protecting their mental health. As stressed by the court, the adoption of EU standards on reception of applicants for international protection aims to ensure that they have comparable living conditions in all Member States, and thus, withdrawing benefits on the sole ground that the applicant is subject to a Dublin transfer decision is not compatible with EU law.

Finally, the judgment confirms that the obligations prescribed by the recast RCD on Member States where applicants reside cease only when the applicants have actually been transferred to the requested or responsible Member State.

Referrals to the CJEU

➤➤➤ Belgium – Medical test mandated by a destination or transit country to enforce a return decision

The Constitutional Court in Belgium [referred](#) two questions to the CJEU for a preliminary ruling on whether EU law prohibits forced medical examinations to carry out a return measure, when the examination is a condition of entry or transit, or a travel condition imposed by the transport carrier when a public health emergency of international concern is declared by the World Health Organization (WHO).

The civil society organisations submitting the appeal before the court argued that subjecting a person to a forced medical examination violates the rights to dignity, protection from inhuman and degrading treatment, private life and personal data, and is not provided for in the Return Directive. The court noted that Article 8(1) and (4) of the Return Directive does not define ‘necessary’ or ‘coercive’ measures and it questioned whether such a measure would meet the requirements of last resort, proportionality and compliance with fundamental rights. Looking at other EU law instruments, the court further noted that while they provide for compulsory



medical examinations, they do so based on public health objectives and under strict conditions, questioning whether the aim of ensuring effective returns could justify such national measures.

On the compatibility of the national measure with the EU Charter, the court noted that a compulsory medical examination is likely to affect the dignity of the person undergoing the examination and, in itself, constitutes an interference with their right to physical integrity.

➤➤➤ Germany – Eligibility for temporary protection when Ukrainian nationals have resided in a third country for over 2 years prior to requesting protection in the EU

Secondary movements within the framework of temporary protection were first addressed by the CJEU in [Krasiliva](#) (C-753/23, 27 February 2025), which held that authorities are obliged to issue residence permits based on temporary protection when an applicant has requested, but not yet obtained, a permit in another Member State. Drawing on *Krasiliva* and based on Article 8(1) of the Temporary Protection Directive (TPD), Recitals 4 and 5 of the Council Implementing Decisions [2025/1460](#) and [2026/1912](#) provide that applicants who have been issued a temporary protection permit in another Member State are not entitled to it elsewhere.

Recently, the Higher Administrative Court of Hesse [referred](#) two questions to the CJEU on whether Ukrainian nationals remain within the scope of the TPD when, after fleeing Ukraine, they first resided legally outside of the EU (Georgia in this case) for 2 years before entering Germany. The court asked whether prior prolonged legal residence in a third country may justify exclusion from temporary protection when the applicants did not have a residence permit but supported themselves through employment and church donations, and whether this depends on their ability to return to that country and their prospects of re-entry and securing a livelihood. It also asked whether, following a refusal of temporary protection, a return decision may be issued under the Return Directive. Citing *Krasiliva*, the referring court suggested that exclusion could be justified when Ukrainian nationals had previously held a comparable residence permit in the third country, granting access to social welfare which was equivalent to the minimum standards under the TPD.

➤➤➤ Germany – ‘Expiry’ of a return order when the person actually returns to their country of origin and their subsequent application is dismissed as inadmissible

The German Federal Administrative Court addressed the case of Albanian applicants who, following the rejection of their asylum requests in 2019, had complied with their obligation to leave the country but later returned to Germany and lodged subsequent applications for international protection, which were rejected as inadmissible in 2022. The court [referred](#) the case to the CJEU to clarify whether the recast APD and the Return Directive allow a removal order issued in connection with the rejection of a previous asylum claim to remain enforceable, without requiring a new one when a subsequent application does not lead to a new asylum procedure.

The court’s answer can bring more clarity on the validity of an enforceable return decision, as neither the Return Directive nor the draft of the new Return Regulation provide for any ‘expiry’ triggered by an actual return to the country of origin.



Greece – The right to an effective remedy when a negative decision is notified electronically without verification of access or the exact time of access

Amid the increasing importance of digitalising procedures with the EU Pact on Migration and Asylum and making national procedures more efficient, the First Instance Court of Thessaloniki [referred](#) five questions to the CJEU for a preliminary ruling on the compatibility of its system for the electronic notification of asylum decisions with Article 46 of the recast APD and Article 47 of the EU Charter. The law contains a presumption that a decision is served on an applicant after 48 hours of the decision being sent by email, and the time limit for the appeal starts based on this ‘fictitious service’. The applicant argued that speeding up the procedure using electronic means of communication must not result in the undermining of the rights of defence. She alleged that she was deprived of the right to an effective remedy because her appeal was dismissed as out of time based on the fictitious notification, although she claimed that she never received the negative decision.

The judges questioned whether such a situation violated the principle of equivalence since, for instance under the Tax Procedure Code, a system to verify notification is provided, and when the receipt of a registered letter is disputed by the taxpayer, the presumption of legal service does not apply.

Netherlands – Relevance in the examination of an application for international protection of a favourable decision in another Member State and the evidence submitted therein

The Dutch Council of State [referred](#) five questions for a preliminary ruling on the consequences of the CJEU judgment in [QY v Bundesrepublik Deutschland](#) (C-753/22, 18 June 2024) for the examination of an application for international protection lodged in a Member State by a person who has previously been granted refugee status in another Member State. In [QY](#), the CJEU held that, when the second Member State cannot rely on the inadmissibility ground in Article 33(2)(a) of the recast APD because a return to the first Member State would expose the applicant to a risk of treatment contrary to Article 4 of the EU Charter, it must examine the application itself, while taking full account of the earlier refugee-status decision and the evidence underpinning it.

The questions referred seek to clarify the practical and legal implications of that obligation. In particular, the Council of State asked whether “taking full account” requires the examining Member State merely to consider the material from the first Member State as part of its own assessment or whether the previously granted refugee status must constitute a starting presumption in favour of international protection and whether the examining Member State may compare the applicant’s statements and other evidence from the two asylum procedures. The council also sought clarification on the consequences of a finding that the applicant no longer qualifies for international protection while the refugee status provided by the first Member State remains in force, including whether the examining Member State must request that status to be withdrawn, the applicable timeframe for such a request and whether a return decision may be issued before a withdrawal.





The council linked these questions to a previous request for a preliminary ruling from the District Court of the Hague in [Applicants v The Minister for Asylum and Migration \(de Minister van Asiel en Migratie\)](#) and requested the CJEU to examine the referrals together.

➤➤➤ **Netherlands – Evaluating adequate care and the best interests of the child prior to issuing a return decision concerning an unaccompanied minor**

The CJEU first clarified in [TQ](#) (C-441/19, 14 January 2021) that Member States are precluded from issuing and enforcing a return decision against an unaccompanied minor if they cannot confirm that adequate reception facilities are available in the country of return. Drawing on [TQ](#) and citing [KL](#), the District Court of the Hague seated in Roermond [submitted](#) two questions to the CJEU for a preliminary ruling asking i) how to assess the availability of adequate reception facilities in the country of return prior to subjecting an unaccompanied minor to a return decision; and ii) how the best interests of the child must be evaluated in the context of a return. In essence, the court asked whether Member States must conduct an independent, individual and expert-led examination, in line with the General Comments of the UN Committee on the Rights of the Child, rather than following the current practice where immigration authorities are responsible for the assessment.

2. European Court of Human Rights

The European Court of Human Rights (ECtHR) pronounced judgments related to the family reunification of recognised and stateless refugees, entry bans and the right to family life.

Family reunification of refugees

On 23 June 2026, the court delivered three judgments concerning the right to family reunification of recognised refugees in Greece. The ECtHR found a violation of the right to family life (Article 8 of the ECHR) alone and in conjunction with the right to an effective remedy (Article 13 of the ECHR). The judgments provide clarity on the implementation of the Family Reunification Directive within the Greek legal and administrative frameworks, through Presidential Decree (PD) 131/2006. The decree had been previously examined by civil society organisations, which concluded that its provisions raised legal and practical challenges to recognised refugees.³ Litigation was led by the Greek Council for Refugees. The court analysed whether the Greek authorities had struck a fair balance between the interests of the state and the right to family reunification by refraining for a prolonged period from deciding on the applicants' requests for family reunification due to a lack of compliance with formal legal requirements.

[Suji v Greece](#) (No 13250/23) concerned a stateless Rohingya refugee from Myanmar who was requested to provide travel documents for his family members. [Dotani v Greece](#) (No 31077/23) concerned an Afghan refugee who was required to present duly certified family and travel

³ See Refugee Support Aegean, [Policy note: Recognised refugee statistics in Greece in 2025](#), March 2026. See also Greek Council for Refugees, [Family Reunification of Recognised Refugees in Greece](#), July 2025.





documents by the competent consular office. [T.N. v Greece](#) (No 41855/23) concerned a Burundian refugee who was required to provide supporting documents attesting to family ties and travel documents for his family members who resided as asylum seekers in South Africa.

In the three cases, the ECtHR ruled that the Greek Asylum Service (GAS) must have been aware of the applicants' objective impossibility to produce the requested documents and, as the only competent authority, should have looked for alternatives or at least considered those proposed. Specifically in *Suji*, the court noted that evidence establishing the impossibility for members of the Rohingya minority to access documents was publicly available and accessible at the time the applicant filed his request and during the two interviews with GAS. In *Dotani*, the court emphasised that the authority's requirement was in practice impossible due to the refusal of the Greek consular office in Islamabad to certify documents issued by the *de facto* authorities. Neither the conduct of the consular office nor Greece's policy of not recognising the Taliban government relieved GAS from its obligation to seek alternative solutions. Similarly in *T.N.*, the court noted that GAS did not even attempt to verify whether the applicant's explanations were plausible in view of relevant and updated country information on Burundi and South Africa and it should have considered the particular difficulties invoked by the applicant, i.e. that as asylum seekers, his family members in South Africa did not have travel documents. By insisting on the applicants' obligation to provide the legally-required documents and failing to decide for an extended period of time, GAS failed to conduct an individualised, balanced and reasonable assessment, considering all relevant factors, as required by national and European case law.

Significantly, the court ruled that although Article 14(1)(b) of the PD 131/2006 and Article 11(2) of the Family Reunification Directive only mention flexibility for proof of family ties, there was no reason not to apply such flexibility to travel documents, since domestic case law does not distinguish between the two categories of documents. The Greek government had argued that, for reasons of public safety, similar flexibility was not provided for missing authenticated travel documents. As highlighted by Equal Rights Beyond Borders and International Refugee Assistance Project in their third-party intervention, the court noted that GAS had not invoked any single specific national security or public order ground that would justify a stricter approach towards the travel documents of the applicant's family members. Furthermore, flexibility and adaptability were the essential points submitted by [UNHCR in its third-party intervention](#).

The court concluded that the authority's prolonged failure to decide on the applications appeared excessive in view of the long period of separation between the applicants and their family members, and the absence of an effective remedy in the domestic legal system to redress the situation. The exceptional circumstances and insurmountable obstacles invoked by the government without specifying their nature could not justify the situation. Specifically for Afghanistan, in *Dotani* the court rejected the government's argument that there were insurmountable obstacles due to the Taliban's rise to power and the suspension of the certification of documents issued by them.



The judgments consolidate the principles set out by the ECtHR in [M.A. v Denmark](#) (No 6697/18, 9 July 2021) and [B.F. and Others v Switzerland](#) (No 13258/18, 4 July 2023). They are expected to impact the examination of family reunification applications in EU+ countries, especially when there are objective impossibilities for family members to comply with the relevant requirements when reuniting from countries with authoritarian governments or governments that do not recognise family members as citizens of that country.

Weighting the prospect of re-entry in assessing the impact of expulsion and an entry ban on the right to family life

In [Allabed v Denmark](#) (No 14983/25, 7 July 2026), the ECtHR assessed whether the expulsion of a Syrian applicant and imposing a 6-year re-entry ban constituted a proportionate interference with his right to private and family life. In particular, the applicant argued that although the re-entry ban was limited to 6 years, in practice this was a *de facto* permanent ban as, being Syrian, he fell within the visa group 5, under which visas are granted only in very exceptional circumstances, thus his chances to re-enter Denmark were purely theoretical. He referred to the ECtHR's findings in [Sharafane v Denmark](#) (No 5199/23, 12 November 2024).

The ECtHR concluded unanimously that the interference with the applicant's private and family life was supported by relevant and sufficient reasons thus there had been no violation of Article 8 of the ECHR. The court evaluated whether the decision was proportionate considering the offences committed and the sentence imposed, the length of the applicant's stay and his ties in Denmark, his family situation in Syria and the duration of the expulsion order. The ECtHR noted that the length of the re-entry ban was one of the many factors to be considered in assessing whether an expulsion was compatible with Article 8 of the ECHR, highlighting that neither this factor alone nor any other factor are decisive for the outcome of the assessment. Furthermore, the court held that the considerations in *Sharafane* did not apply to the applicant's case, as he entered Denmark as an adult and he had a wife and minor children in Denmark. Therefore, his chances of re-entering Denmark were not merely hypothetical, as after the expiry of the re-entry ban, he could apply for family reunification.

The court emphasised that, when independent and impartial domestic courts have carefully examined the facts and adequately weighted the applicant's personal interests against public interest, it is not generally for the ECtHR to substitute its own assessment of the merits for that of the competent national authorities.

The case is relevant for the national context in light of the legal amendments introduced to the Danish Executive Order on Visas following the *Sharafane* judgment. While *Allabed* differs from that case, the ECtHR stated that it would be difficult to see how the amendments have affected the likelihood of a person in a similar position as in the *Sharafane* case being allowed to enter Denmark for a visit after the expiry of a time-limited re-entry ban.



3. Highlights from national courts

This edition includes case law from Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, France, Germany, Hungary, Italy, Latvia, Lithuania, the Netherlands, Norway, Slovakia, Spain and Switzerland.

More national judgments from this period are available in the [EUAA Case Law Database](#). See the [Search page](#) and the [Digest of cases](#) to consult additional judgments.

EU Pact on Migration and Asylum



During the reference period of this quarterly, on 12 June 2026 the EU Pact on Migration and Asylum entered into application. Just over 1 month later, the European Commission's first assessment [reported](#) considerable progress in its implementation, while the EU Agency for Fundamental Rights (FRA) [highlighted](#) challenges linked to the new framework and the importance of ensuring its consistent and rights-compliant implementation across Member States. At the judicial level, emerging national case law is already illustrating some of the first legal questions arising from the Pact's entry into application.

Germany and the Netherlands – Transitional provisions of the Asylum and Migration Management Regulation (AMMR)

Several national courts, including in Germany and the Netherlands, have begun interpreting the transitional provisions of the AMMR. The Regional Administrative Court of Bremen [ruled](#) that the Dublin III Regulation remains applicable to cases pending prior to 12 June 2026 for the criteria to determine responsibility set out in Articles 7-15, while its procedural provisions no longer apply to applications registered before that date, pursuant to Article 84(2) of the AMMR. The court clarified that transfer deadlines may be extended under the AMMR, even when the transfer decision was issued based on the Dublin III Regulation.

The decision contains a detailed interpretation of the transitional provision in Article 84(2) of the AMMR and reflects an emerging approach among German administrative courts, according to which procedural steps taken before 12 June 2026 are governed by the Dublin III Regulation, while procedural consequences arising after 12 June 2026 may be governed by the AMMR. Since the entry into application of the Pact on Migration and Asylum, German courts have in general increasingly ruled on the transitional provisions and are likely to continue clarifying their interpretation and application in the coming months.

Consistent with this approach, the District Court of the Hague seated in Utrecht [ruled](#) that the AMMR (rather than the Dublin III Regulation) applied to the extension of the transfer period following an applicant's absconding on 30 June 2026 after Czechia was deemed responsible for his application, since he absconded after the AMMR entered into application. The court interpreted Article 84(2) of the AMMR as applying the Dublin III Regulation only for determining the Member State responsible for applications registered before 12 June 2026 and not for the subsequent extension of the transfer period. The court further held that, under Article 46(2) of



the AMMR, the extended transfer period is calculated from the point at which the original transfer period commenced and not from the date on which the responsible Member State is informed of the applicant's absconding.

▶▶▶ Italy and Lithuania – Application of the border and accelerated procedures

In Italy, emerging national case law has highlighted challenges in applying the new border procedure before adopting the necessary national implementing measures. In the case of a Colombian applicant, the Tribunal of Trieste [found](#) that the accelerated and border procedure governed by Articles 42(1)(j) and 45(1) of the Asylum Procedures Regulation (APR) could not be applied, as the decree of the Minister of the Interior identifying the border and transit zones where that procedure could be carried out, as required by Article 28-bis of Legislative Decree No 25/2008, had not yet been adopted. A few days after the judgment, the [Decree of the Ministry of the Interior of 21 July 2026](#) was [published](#) in the Official Gazette, thereby identifying the border and transit zones where the border procedure may be applied.

With the national framework in place, judicial scrutiny shifted to how the new procedures were applied. The Tribunal of Palermo [found](#) that the accelerated procedure under Article 42(1)(j) of the APR had been unlawfully applied by relying solely on Eurostat data showing a recognition rate of 20% or lower for applicants from Tunisia, without assessing whether that rate accurately reflected the applicant's protection needs based on his individual circumstances. The tribunal also clarified that the lawfulness of the accelerated procedure must be reviewed by the court of its own motion. Referring to the principle [established](#) by the Court of Cassation that a failure to comply with the time limits of the accelerated procedure results in the application of the regular procedure, the tribunal held that the same applies when procedural safeguards are not respected.

In Lithuania's first case related to the application of the EU Pact on Migration and Asylum, the Supreme Administrative Court [found](#) no circumstances indicating that the border procedure had been applied without justification or should have been discontinued, nor did it find grounds for lifting the restriction imposed on the applicant's freedom of movement. The court held that placing an applicant in temporary accommodation with the possibility to leave the facility upon authorisation constituted a restriction of the freedom of movement inherent to the asylum border procedure adopted under the Pact and did not amount to detention. Furthermore, the court clarified that, according to the new rules, the mere fact that the rejection decision was under appeal and not yet final did not constitute grounds for terminating the border procedure or lifting the restriction of movement applied under it.

▶▶▶ Italy and Croatia – Obligation to reside in a designated reception centre during border procedures

In another judicial decision concerning the implementation of the APR in Italy, the Tribunal of Palermo [granted](#) interim relief suspending the new measure requiring an asylum applicant subject to the border procedure to reside in a designated reception centre pursuant to Article 54 of the APR. The tribunal found that the failure to consider the applicant's vulnerability, which had emerged during the screening phase, could constitute a fundamental breach of the procedural rules, vitiating the lawfulness of the border procedure, and the measure entailed



an immediate restriction on the applicant's personal liberty or freedom of movement, exposing him to potentially irreparable harm.

Similarly, several decisions in Croatia examined the placement of applicants subject to border procedures. In one case, the Administrative Court in Rijeka [considered](#) the case of a Bangladeshi applicant and upheld his placement at the Dugi Dol closed centre for a maximum of 12 weeks. The court noted that the grounds for detention were not met, but less restrictive alternatives, such as reporting obligations or financial or other guarantees, were deemed insufficient to ensure the applicant's continued availability throughout the proceedings. The applicant also challenged his placement on the grounds that the conditions posed health risks. Relying on Article 54 of the APR, which provides that applicants subject to a border procedure shall, as a general rule, reside at or near the external border or transit zones, or in other designated locations. The court held that applicants seeking an exception to this general rule bear the burden of demonstrating why such an exception should apply.

➤➤➤ **Portugal – Constitutional review of the Pact's provisions on the detention of children, screening and border procedures, and the absence of a suspensive effect for appeals**

In a preventive review of the amendments which incorporate the Pact on Migration and Asylum into Portuguese law, the Constitutional Court [upheld](#) all challenged provisions on 28 August 2026. The court clarified the requirements applicable to the detention of asylum-seeking minors, stressing that detention must remain a measure of last resort and, in the case of accompanied minors, authorities must assess whether a non-custodial alternative can be applied to the family as a whole and, when not feasible, the physical, psychological and emotional impact of detention on the child must be independently assessed, taking into account the child's best interests. For unaccompanied minors, the court held that detention may only be used when it serves to protect the child, citing risks such as trafficking, exploitation, disappearance or violence.

The court also clarified that, in the border procedure, the placement of rejected applicants in the international zone of a port, airport or in a detention facility, with a view to a removal, amounts in all cases to detention and therefore must be promptly brought before a judge for a review. The court drew attention to Article 4(2) of the Return Border Procedure Regulation, noting that it provides that applicants are entitled to an adequate standard of living in line with the RCD and the EU Charter, and only very short detention periods in an airport international zone would be compatible with that standard. In contrast, the obligation of applicants to remain at the disposal of the authorities for screening, while implicitly meaning that they may not move away and may need to organise their daily lives during screening so that they remain available to the authorities, does not necessarily amount to a custodial measure.

Lastly, the court held that the withdrawal in the amended provisions of an automatic suspensive effect of an appeal against an international protection decision does not, in itself, breach the principle of *non-refoulement*. The court reasoned that Article 68(1) of the APR no longer attaches an automatic suspensive effect to appeals against decisions on international protection but to return decisions, and it found it sufficient that applicants may seek interim measures suspending the enforcement of a removal while a judicial review of the asylum decision is pending.



Access to the asylum procedure



Spain – Pushbacks (*rechazo en frontera*) in the North African exclaves of Ceuta and Melilla

On 30 and 31 July 2026, the North African Spanish exclave of Ceuta experienced a mass border crossing, with reportedly more than 70,000 third-country nationals, many of them unaccompanied minors, attempting to reach the city by sea. On 30 July 2026, the Spanish Ministry of the Interior [identified](#) one of the triggers as misinformation spread by various parties, especially on social media, about a Spanish Supreme Court ruling of [29 June 2026](#).

This judgment upheld, on cassation appeal, earlier rulings issued in 2024 by the Administrative Court of Ceuta and in [2025](#) by the High Court of Justice of Andalusia, where the courts interpreted the legal provisions governing the pushback of third-country nationals (*rechazo en frontera*) who attempt to cross border-containment measures in Ceuta and Melilla. The legal framework governing refusals of entry at the border in the two exclaves was upheld as constitutional by the Spanish Constitutional Court in [2020](#), which relied on the ECtHR ruling in [N.D. and N.T. v Spain](#). In that case, the ECtHR held that States may refuse entry to persons who have failed, without cogent reasons, to use means of legal entry that were genuinely and effectively accessible to them and chose instead to cross the border at a different location.

In this case, the Administrative Court of Ceuta, the High Court of Justice of Andalusia and the Supreme Court concluded that migrants arriving by sea could not be subjected to pushbacks because they had not overcome any border containment measures within the meaning of the law. The Supreme Court also noted that the existing maritime border surveillance measures did not trigger the special regime allowing for pushbacks, although this could change if border containment measures were established at sea.

Hungary – Authorities must refer a case to the asylum authority upon declaration of intent to apply for international protection during a removal

In Hungary, the Budapest Regional Court of Appeal [upheld](#) the judgment of the Szeged High Court, which had ruled that the police had failed to act by not referring a Syrian applicant, who had expressed the intention to apply for international protection, to the asylum authority. Instead, they removed the applicant from Hungary by escorting him across the border.

Referring to extensive CJEU jurisprudence, namely [FMS](#) (C-924/19 and C-925/19), [European Commission v Hungary](#) (C-808/18), [European Commission v Hungary](#) (C-823/21) and [Ministerio Fiscal v V.L.](#) (C-36/20 PPU), the Budapest Regional Court of Appeal concluded that if the national provisions did not ensure the applicant's effective access to the asylum procedure, as prescribed by Article 6 of the recast APD, but instead required either his removal from Hungary or the submission of a declaration of intent to apply for international protection at a Hungarian embassy, those provisions should have been disapplied because they are contrary to EU law. Thus, the court clarified that the removal decision could not be regarded as a border-policing measure separate from asylum obligations. A statement made to the police even during a removal is sufficient to trigger the obligation to refer the case to the asylum authority, and the obligation to comply with Article 6 supersedes the removal decision. The



mere fact of illegal residence does not preclude the right to access the procedure under Article 6 of the recast APD.

Administrative procedure



►►► Belgium – Compliance with data protection regulations and the right to respect for private life when conducting remote interviews

The increased use of remote interviews in the asylum procedure has sparked significant legal concerns about data privacy and procedural rights. By judgment of 18 June 2026, the Belgian Constitutional Court [ruled](#) on the questions referred by the Council of State in [March 2025](#) and found that the practice of carrying out interviews by videoconference lacked a sufficient legal basis in the Law of 15 December 1980 (Aliens Law), as the articles concerning asylum interviews for both adults and minors did not regulate the existence and scope of the processing of metadata, images and sounds; did not specify the purposes of the processing as required by the EU General Data Protection Regulation (GDPR); did not establish the categories of persons with access to the data; nor whether the provider of the videoconferencing software has access to the data. Accordingly, the Constitutional Court held that carrying out remote asylum interviews without the above requirements was incompatible with Article 22 of the Belgian Constitution, read jointly with Article 6(3) of the GDPR and Article 8 of the ECHR.

Notably, in a previous ruling, the Council for Alien Law Litigation (CALL) had [addressed](#) how several of the aspects that the Constitutional Court required to be regulated were applied in practice by the Commissioner General for Refugees and Stateless Persons (CGRS). These principles were likewise referenced by the CGRS in a [press release](#) following the Constitutional Court judgment, in which it took note of the recently amended Article 57 of the Belgian Aliens Law, which, incorporating Articles 13(10) of the APR and 22(5) of the AMMR, now makes specific reference to remote asylum interviews. On this note, the EUAA [Guidance on Remote Interviews](#) (May 2025) addresses the exceptional use of remote means in AMMR interviews, admissibility and substantive interviews, and interviews concerning the withdrawal of international protection, which must be based on justified reasons and take into account whether a remote format is suitable for the individual applicant.



Assessment of applications

►►► Czechia, Germany, Norway and Slovakia – Russia: LGBTIQ applicants, political opinion and draft evasion

Recent rulings from courts in Czechia, Germany, Norway and Slovakia have examined asylum claims by Russian nationals, particularly in the context of Russia's invasion of Ukraine and the risks faced by those who oppose the war or refuse to participate in it.

In Czechia, the Supreme Administrative Court (SAC) [upheld](#) the judgment of the Regional Court in Brno which granted international protection to a Russian applicant who feared persecution because of her political opinion and her sexual orientation. The court affirmed that



the LGBTIQ community in Russia constitutes a particular social group which increasingly faces repression. Referring to [EUAA's COI report on Russia](#) from December 2025, the Regional Court noted that the LGBTIQ community and people who express political dissent and solidarity with Ukraine face persecution in Russia. Noting that the applicant had not yet faced persecution as she had hidden her sexual orientation, SAC agreed that international protection needs can also arise *sur place*. It also held that the risk of persecution should have been assessed prospectively, based on the interplay of sexual orientation and political opinion, which in the applicant's case established a reasonable likelihood of persecution.

Similarly, various Slovak administrative courts upheld appeals lodged by Russian nationals who had been refused refugee status. The Administrative Court in Bratislava [annulled](#) a refusal of international protection for a Russian national who had lived in Ukraine for 35 years and criticised the Russian government online. The court examined COI about repression of Russian returnees, noting that authorities inspect electronic devices during border controls and investigate possible connections with Ukraine, and surveillance also includes ordinary citizens with limited social media outreach. The court ruled that the ministry's advice to delete online content was contrary to the freedom of expression and critical online activity after a request for asylum could not be considered abusive, as an application for international protection does not preclude people from expressing their political views.

Likewise, the Administrative Court in Košice [annulled](#) the rejection of refugee status for a Russian applicant who refused to perform military service in the war against Ukraine and was being prosecuted for his online opposition activity. The court held that, while summonses for military service generally do not constitute persecution, the conflict between Russia and Ukraine is a military action condemned by the international community as contrary to fundamental rules of human conduct, and therefore any punishment for desertion or a refusal to perform military service in itself constitutes persecution. Accordingly, the court found that the ministry should have assessed the extent to which the applicant's fear of persecution corresponded to the nature of the conflict and to whether he would have been forced to take part in international crimes or excludable acts.

The Oslo District Court [revoked](#) the refusal of the Norwegian Immigration Appeals Board (UNE) to grant international protection to a 22-year-old Russian man, holding that there was a heightened risk that he would be conscripted and sent to the war in Ukraine, even as a first-time conscript. The court relied on three expert witness testimonies describing a new conscription law of January 2026, under which individuals are continuously called for service and the deployment of an electronic system in 2022 which increased the likelihood of the applicant being quickly identified upon a return to Russia. The court likewise relied on the report [Military Service and International Protection in Europe: Jurisprudence on applicants invoking compulsory military service, draft evasion and desertion as protection ground](#) (November 2025) drafted by Comillas Pontifical University under an EUAA grant. The court found that returnees who had failed to respond to a call for military service were unlikely to have access to civil service as an alternative to enlistment and participation in the war would entail contributing to the commission of war crimes, thereby it provided refugee status under Articles 28(a) and 29(2)(e) of the Norwegian Immigration Act (Article 9(2)(e) of the recast QD). Significantly, the court concluded that the UNE's assertion that conscripts in their first-time service were not being sent to the frontline in Ukraine at the time and that coercion to make them sign a contract was not so widespread that it would generally indicate a real risk



for all those in first-time service was factually incorrect, considering the COI available at the time of the decision.

In contrast, the German Higher Administrative Court of Saxony [ruled](#) that the mere fact of being called up for compulsory military service upon a return to Russia did not, in itself, entail a sufficiently likely risk of inhuman or degrading treatment. Furthermore, the court found that it was not sufficiently likely that the applicant would be deployed to the war in Ukraine if called up for military service, whether as a conscript, reservist or contract soldier. The ruling attracted widespread coverage in the German media, while remaining consistent with the established case law of the German Higher Administrative Courts on this matter, such as the courts of [Saxony-Anhalt](#) (March 2026) and [Berlin-Brandenburg](#) (May 2026).

➤➤➤ **France and Czechia – Senegal: Particular social group (forced marriage, FGM/C and LGBTIQ applicants)**

For the first time, the National Court of Asylum (CNDA) in France [ruled](#) that women in rural areas of Senegal who refuse a forced marriage or attempt to escape one constitute a particular social group. Although the Constitution of Senegal prohibits forced marriage and the Family Code sets the minimum marriage age at 16 for women and 18 for men, the practice remains widespread and the legislation is largely unenforced, especially in rural areas of the south, east and north-east. Respect for tradition, social pressure, the need to preserve family honour, family and community ties and a lack of financial resources compel many girls and women to accept forced marriages, risking exposure to domestic violence, ostracism and socio-economic consequences if they refuse. Based on COI, the court also observed that, despite the Senegalese government's clear political will to end forced marriages through national strategies and regional action plans, and the possibility for victims to seek help and protection from the police or judicial authorities, most forced marriages remained unchallenged.

Similarly, the Supreme Administrative Court in Czechia [ordered](#) the re-examination of an application lodged by a Senegalese woman, who claimed to have survived domestic violence and abuse as a child and feared gender-based persecution in the form of female genital mutilation/cutting (FGM/C) and forced marriage. During the judicial review, the applicant disclosed that she was homosexual. The court recalled that the Asylum Act had incompletely transposed the recast APD criteria for designating safe countries of origin and held that Senegal had been wrongly designated as a safe country of origin. The ministry and the regional court had failed to properly examine whether Senegal could provide effective protection to the applicant and whether an internal protection alternative was possible and realistic in her individual circumstances. The applicant's need for special procedural guarantees had not been assessed, and the authorities should have provided a female interviewer on their own motion. With reference to her credibility and disclosure of sexual orientation later in the proceedings, the court held that the fact that she had discussed domestic violence, FGM/C and forced marriage in the presence of male staff did not mean that she would also have been able to disclose her sexual orientation earlier.



France – Yemen: Particular social group (LGBTIQ applicants)

The CNDA in France [ruled](#) that homosexual persons in Yemen belong to a particular social group and granted refugee status. The court noted that same-sex relations are criminalised according to the Yemeni Criminal Code, with penalties including imprisonment, flogging and stoning, and COI also reported sentences of crucifixion and death for homosexuality-related offences. In addition, the court observed that the criminal provisions are applied arbitrarily by the *de facto* authorities (the Houthis, the internationally-recognised government, and the Southern Transitional Council), often under the guise of crimes of public order. It also noted that homosexual persons are particularly subjected to harassment by the police, special forces and a conservative society, without legal protection or effective local association support.

Switzerland – Afghanistan: Indiscriminate violence

In a landmark judgment, the Swiss Federal Administrative Court [addressed](#) the change in practice adopted by the State Secretariat for Migration (SEM) in spring 2025 on removals to Afghanistan. Reassessing developments since the Taliban takeover, the court considered the EUAA [Country Guidance: Afghanistan](#) (May 2024), the COI reports [Afghanistan: Country Focus](#) (November 2024) and [Afghanistan: Country Focus](#) (January 2026), finding an overall improvement in the security situation, with a significant decline in armed violence and civilian casualties, but a marked deterioration in socio-economic and humanitarian conditions due to large-scale returns from Iran and Pakistan, cuts in international assistance, internal displacement and natural disasters. Drawing a distinction with the ECtHR's judgment in [D.M. v Sweden](#), the court confirmed that a return to Afghanistan remained, in principle, unreasonable, unless particularly favourable individual circumstances cumulatively existed. This exception concerned healthy adult men living alone in Switzerland who were socialised in Afghanistan and have a social or family network to support their reintegration, with family, professional, financial circumstances and ethnicity also taken into account. Departing from its previous approach, the court held that the improvement in security justified applying this exception without any particular geographical restriction and throughout Afghanistan.

France – Haiti: Indiscriminate violence

Following a record number of repeated applications on the basis of a [judgment](#) from December 2023, the CNDA in France [ruled](#) that, due to the ongoing armed conflict between criminal groups in Haiti in the areas between the cities of Mirebalais and Saut-d'Eau in the Central Department and the border with the Western department, there is a situation of indiscriminate violence of exceptional intensity and the mere presence of the applicant would expose him to indiscriminate violence which warrants subsidiary protection. However, regarding the southern region, in a separate judgment, the CNDA [rejected](#) the appeal of a Haitian from Saint-Louis-du-Sud, considering that he can take a return route to his region of origin without crossing an area experiencing indiscriminate violence of exceptional intensity.

Austria and Cyprus – Iran: Indiscriminate violence

The Austrian Constitutional Court [held](#) that the Federal Administrative Court had failed to assess an Iranian applicant's entitlement to subsidiary protection on the basis of up-to-date COI and to consider whether the applicant's return would expose him to a real risk of serious



harm in the context of an international armed conflict, in breach of Articles 2 and 3 of the ECHR. The lower court had relied on COI from January 2026, which indicated that there was neither a general existential emergency nor a situation of indiscriminate violence in Iran. However, it failed to consider the more recent State Documentation Briefing Note “US and Israeli Attacks on Iran” (2 March 2026), which documented the military conflict in Iran following the US and Israeli attacks launched in late February 2026, including the reported civilian casualties and the evolving security situation.

Similarly, relying on updated COI from July 2026, including the [Update Special Report](#) by the Institute for the Study of War (24 June 2026) and ACLED key statistical data from June and July 2026, the International Protection Administrative Court in Cyprus [granted](#) subsidiary protection to an Iranian applicant highlighting the intensity, duration, frequency and geographical extent of the military operations, the repeated breakdown of ceasefire agreements, the use of weapons systems with wide-ranging effects, attacks on political and critical infrastructure, and the particularly high number of incidents of violence and deaths linked to political opinion which were recorded in Tehran.

➤➤➤ **France – Mali: Indiscriminate violence**

The CNDA in France pronounced two judgments concerning the ongoing armed conflict in Mali, holding that the regions of [Bandiagara](#) and [Mopti](#) are experiencing a situation of exceptionally intense and indiscriminate violence and the mere presence of the applicants would expose them to indiscriminate violence, warranting subsidiary protection. With these judgments, the CNDA complemented its previous jurisprudence on Mali from December 2025, when it had ruled that the [Kayes](#) region was affected by a situation of indiscriminate violence resulting from an internal armed conflict, the intensity of which, however, was not considered to lead to the conclusion that every civilian returning there, simply by virtue of their presence in that city and region, would face a real risk of serious harm.

➤➤➤ **Latvia – Pakistan: Indiscriminate violence**

In Latvia, the Riga District Administrative Court [confirmed](#) the refusal of subsidiary protection to a Pakistani applicant from Bara Tehsil in the Khyber Pakhtunkhwa province. Citing the EUAA [COI Query on the Security Situation in Khyber District](#) (March 2026), the court noted that the region had been affected not only by the activities of armed groups but also by a wave of cross-border attacks between Afghanistan and Pakistan since late 2025, which reportedly prompted Pakistan to launch attacks on Kabul, followed by Afghan retaliatory attacks in Pakistan’s border areas. Based on the EUAA query, the court found that, although the security situation in the district had deteriorated in 2025 and early 2026 with continued armed incidents, counter-terrorism operations and population displacement, the entire territory of Khyber District was not equally affected by indiscriminate violence. It further noted that residents could move to areas within the Khyber district where the security situation was more stable and find temporary shelter there.

➤➤➤ **Norway and Austria – Somalia: Indiscriminate violence**

The assessment of protection claims by Somali nationals continued to draw attention to both the security context and individual risk factors, with the Norwegian Immigration Appeals Board



(UNE) [updating](#) its guidelines in August 2026. UNE found that, while the security situation in the north remained stable over time and did not, in itself, warrant international protection, the situation in southern and central Somalia varied between areas, with Mogadishu continuing to face security challenges. Individual circumstances, such as family links, clan affiliation and the risks of FGM/C, forced marriage or recruitment by al-Shabaab, also had to be assessed.

Similarly, the Austrian Constitutional Court [held](#) that the Federal Administrative Court had insufficiently examined an applicant's circumstances and the security and humanitarian situation in his place of origin, Burco (Togdheer region), or Mogadishu, as required under Articles 2 and 3 of the ECHR. It ruled that the lower court had failed to consider the EUAA [Country Guidance: Somalia](#) (October 2025) or explain on the basis of which country information it had reached a different assessment about the reasonableness of an internal protection alternative in Mogadishu, despite the applicant not belonging to a local majority clan and lacking a support network there.

Latvia – Sudan: Indiscriminate violence

The Latvian Administrative Court of Riga [confirmed](#) a negative decision for a Sudanese applicant of Fur ethnic origin from Darfur. Although his account of past persecution was considered consistent with the EUAA [COI Report - Sudan: Country Focus](#) (February 2025) on ethnic violence in Darfur and the targeting of non-Arab communities by the Rapid Support Forces (RSF), it was found not credible due to significant inconsistencies.

Regarding subsidiary protection, the court found that most of western Sudan, including Darfur, was under RSF control, while most of northern, eastern and central Sudan, including Khartoum, was controlled by the Sudanese Armed Forces (SAF). It found the security situation in the SAF-controlled areas sufficiently stable. Given the applicant's prolonged previous residence in Khartoum, the court considered it his relevant place of return and found no serious and individual threat due to indiscriminate violence there. It acknowledged the 2025 UNHCR [Guidance Note](#) advising against denying international protection to Sudanese nationals on the basis of an internal protection alternative and held that Khartoum was not such an alternative for the applicant, but rather a previous place of residence to which he would return.

Bulgaria and Spain – Syria: Indiscriminate violence

The evolving security situation in Syria continues to be scrutinised by national courts, while some Member States, including [Austria](#) and [Cyprus](#), have recently introduced voluntary return programmes for Syrian nationals. In Bulgaria, in the case of a Syrian national from Aleppo, the Administrative Court of Stara Zagora [deemed](#) that the criteria for humanitarian status were not met in light of the improved living and security conditions following the fall of the Assad regime and the abolition of compulsory military service. The court also concluded that Türkiye, where the applicant had legally resided for 3 years and received temporary protection, constituted a safe third country for him.



In Spain, the National High Court [upheld](#) the decision not to grant subsidiary protection to a woman from Damascus, relying on EUAA's [Country Guidance: Syria](#) (April 2024). The court cited the CJEU judgments in [M'Bodj](#) (C-542/13, 18 December 2014) and [Diakité](#) (C-285/12, 30 January 2014) and held that, although Syria was experiencing an internal armed conflict, in the Damascus Governorate there was "no real risk of a civilian being personally affected within the meaning of Article 15(c)" of the recast QD.

Exclusion from international protection



Germany – Exclusion from subsidiary protection due to repeated serious legal violations posing a danger to the community or national security

In a landmark judgment, the German Federal Administrative Court (FAC) [ruled](#) that the requirement of being a danger to the public for a person to be excluded from subsidiary protection may also be met when there is a particular accumulation of serious legal violations. The Syrian applicant was convicted more than ten times, receiving fines, juvenile sentences and terms of imprisonment. FAC held that, although the individual offences did not, in themselves, reach the gravity of criminal offences, taken together they may give rise to serious concerns that fundamental societal interests would be impaired or public order would be significantly disrupted to an extent that the State could not reasonably be expected to tolerate. In doing so, FAC clarified the threshold for establishing a danger to the community or national security, finding this interpretation of the provision to be consistent with Article 17(1)(d) of the recast QD and Article 17(1)(d) of the Qualification Regulation.

Reception



Belgium – Applicants granted international protection in another Member State retain entitlement to reception conditions while they have a right to remain

The previous edition of this quarterly, [Issue No 2/2026](#), reported on the series of cases in which courts halted attempts by the Belgian Minister of Asylum and Migration to limit reception for applicants granted international protection in another Member State (Status-M holders), by classifying their applications as subsequent. These included decisions by the Council of State in [December 2024](#) and [March 2026](#) and by the Belgian Constitutional Court in [February](#) and [May 2026](#).

Following the entry into application of the Pact on Migration and Asylum on 12 June 2026, the Minister of Asylum and Migration issued a new decision to limit material reception conditions for Status-M holders. Again, following an urgent appeal by civil society organisations, in July 2026 the Belgian Council of State [ordered](#) the suspension of the execution of the decision. The council held that it does not expressly follow from Articles 3(19) and 55(2) of the APR that applications by Status-M holders can be considered subsequent within the meaning of the APR and the 2024 RCD. The council reasoned that, while subsequent applications with no new relevant elements must be declared inadmissible under Article 38(2) of the APR and do not carry a right to remain, pursuant to Articles 68(3)(b) and 38(1)(c) of the APR, applications by Status-M holders carry a right to remain, are not expressly referred to as subsequent and



are subject to a distinct inadmissibility regime. The Council of State further held that, as long as those applicants retain a right to remain, they are also entitled to material assistance and, as in its earlier decisions under the previous legal frameworks, accordingly, suspended the minister's instruction.

Detention



Italy – Healthcare safeguards in detention centres

In enforcement proceedings concerning compliance with judgment [No 7839/2025](#), by which the Italian Council of State had partially annulled the tender specifications governing Repatriation Detention Centres (CPRs) due to deficiencies in the factual assessment of healthcare safeguards and suicide prevention measures, the Council of State [held](#) that the Ministry of the Interior had failed to fully comply with the judgment. It found that the ministry had not carried out the required substantive factual assessment, including of the adequacy of healthcare provision, the organisation of psychological assistance, the specialised training of staff and the incidence of self-harm and suicide attempts. The council found that the Ministry of Health and the National Guarantor for the Rights of Persons Deprived of Liberty had been only formally, rather than substantively, involved in the reassessment. It therefore ordered the ministry to complete that assessment within 6 months, with the participation of those authorities, before adopting a reasoned final decision.

Italy – Detention under the Italy-Albania Protocol

Italian courts have continued to treat the legality of detention under the Italy-Albania Protocol as unresolved pending guidance from the CJEU. The Tribunal of Rome [examined](#) the case of an Algerian national who, after being detained pending a removal and transferred to the Gjadër CPR, requested international protection. In line with an earlier [judgment](#) from the Rome Court of Appeal, the tribunal held that the detention could not, in any event, be validated until the CJEU provides clarification in the preliminary references referred by the Rome Court of Appeal in Cases [C-706/25 \[Comeri\]](#) and [C-707/25 \[Sidilli\]](#) and by the Court of Cassation in Case [C-414/25 \[Sedrata\]](#).

Referring to the Advocate General's [Opinion](#) in Sedrata, the Italian government [announced](#) that it will expressly regulate the aspects identified as necessary to ensure the compatibility of national legislation with the recast APD and the Return Directive. It also declared that Italy and Albania finalised an exchange of interpretative notes confirming that the protocol includes the possibility for detainees to maintain contact with their family members, consular authorities, lawyers, international organisations and EU agencies. In parallel, the civil society organisation coalition Asylum and Immigration Table (TAI) [launched](#) the “*Renditi Conto*” campaign to raise awareness of the broader economic, human, social and democratic costs associated with the centres in Albania.

Statelessness



Belgium and Spain – Access to the procedure and residence permits

On 25 June 2026, the Constitutional Court in Belgium [annulled](#) several provisions of a 2024 law on admission to residence for stateless people, including two substantive conditions: the requirement that applicants could not acquire or reacquire another nationality and the requirement of prior lawful residence of more than 3 months or asylum-seeker status as a condition for accessing the procedure. It also held that a personal interview is an essential guarantee in statelessness procedures and should be mandatory rather than merely optional. The court further ruled that applicants should, in principle, be protected against removal or *refoulement* while the procedure is pending.

Relatedly, also in June 2026, the Spanish National High Court [recognised](#) a Sahrawi applicant as stateless, holding that her Algerian passport, issued on humanitarian grounds to facilitate travel to countries that do not recognise the Sahrawi Arab Democratic Republic, did not imply that she held Algerian nationality. Relying on established Supreme Court's case law, it further held that the UN Mission for the Referendum in Western Sahara did not provide the protection required by the exclusion clause in Article 1(2)(i) of the 1954 Statelessness Convention.

Rights of beneficiaries of international protection



Netherlands and Spain – Revocation of international protection

In the context of the Ambrose Project, under which the Dutch Minister for Asylum and Migration [reassessed](#) more than 100 international protection permits after the conviction of a legal adviser for human smuggling who provided applicants with fabricated stories, the Council of State [upheld](#) the revocation of an Iranian family's asylum residence permits. It found that the minister had sufficiently established that the family had provided false and rehearsed information about their alleged conversion to Christianity, which was considered an essential element of their asylum claim, and they could therefore no longer benefit from the ordinary presumption of broad credibility or the benefit of the doubt.

However, the council clarified that while fraud in the original asylum procedure may justify increased scrutiny, it does not automatically preclude overall credibility and that, following revocation, the minister must still conduct a fresh and individualised assessment of the applicants' international protection needs. Applying by analogy the credibility guidelines for subsequent applications involving conversion or apostasy (WI 2022/3), the minister must assess the applicants' account as a whole, including their motives and process of conversion, knowledge of the new faith, religious activities and the consequences of their conversion, while taking their previous false statements into account. In addition, the council also found that the family was not properly questioned during the reassessment interviews on all relevant aspects of their alleged conversion or given sufficient opportunity to elaborate on their previous statements.

For its part, the Spanish National High Court [confirmed](#) the revocation of subsidiary protection from a resettled Syrian beneficiary who had been convicted for being an operational member of a terrorist financing network aiming to facilitate the return to Europe of so-called Foreign Terrorist Fighters who, following the emergence of DAESH and its global call in 2014 to join its cause, had travelled to Syria and Iraq to fight in its ranks. The court held that a revocation on national security grounds requires objective evidence of a current threat to State security, which a criminal conviction, even if not yet final, was found to establish.

Temporary protection



►►► Bulgaria – Right to reception conditions and family life for children granted temporary protection

On 30 July 2026, the Council of the EU [extended](#) temporary protection for persons displaced from Ukraine until March 2028, introducing a new eligibility requirement for applicants to demonstrate compliance with their military obligations in Ukraine. The change was followed by [increased enquiries](#) from Ukrainian men about temporary protection, as reported by UNHCR and the National Council for Refugees in Romania, which could potentially lead to an increase in applications for international protection.

Relatedly, some Member States, such as [Poland](#) and [Bulgaria](#), introduced additional requirements or limitations on the entitlement to accommodation for beneficiaries of temporary protection. In both cases, certain categories of beneficiaries considered to be vulnerable were exempted from these limitations.

In Bulgaria, free accommodation was limited to 60 days by decision of the Council of Ministers, except for beneficiaries belonging to a risk group, which included children up to 12 years old (or up to 16 under certain conditions) and one parent or caregiver. The limitation was challenged before SAC, which [annulled](#) certain provisions of the government's decision in February 2026 and later [upheld](#) on cassation appeal in July 2026. SAC found that the restrictions breached national law and Bulgaria's obligations under EU temporary protection law, Article 8 of the ECHR and Article 27(3) of the UN Convention on the Rights of the Child, as they unjustifiably restricted access to accommodation for minors and deprived them of the possibility of living with both parents. In its ruling, the court emphasised that the best interests of the child and the right to family life must be a primary consideration when adopting and implementing national programmes for rights under temporary protection.

Resettlement and humanitarian admission



►►► Germany – Constitutional review of the blanket revocation of humanitarian admission pledges for Afghan nationals holding a declaration of admission

The German Federal Constitutional Court recently pronounced a judgment on the discontinuation of humanitarian admission programmes for Afghan nationals. In December 2025, the Constitutional Court [addressed](#) the “Bridging List” (*Überbrückungsliste*), a temporary programme which was established following the closure of the earlier “Human



Rights List” (*Menschenrechtsliste*), pending the launch of the Federal Admission Programme for Afghanistan. The court held that an Afghan family included in the “Bridging List” had an urgent and substantive interest in obtaining a decision on their pending visa applications, given the heightened risk of their deportation from Pakistan to Afghanistan.

In its recent judgment of 22 July 2026, the Constitutional Court ruled that the decision of the Federal Ministry of the Interior adopted on 8 December 2025 to revoke all declarations of admission issued for Afghan nationals under the [federal humanitarian admission programme](#) was objectively arbitrary because it failed to analyse cases individually. The proceedings were initiated by an Afghan mother and her two minor children who, after receiving declarations of admission issued in September 2021, were transferred to Pakistan where they applied for a visa to enter Germany. The blanket revocation decision of 8 December 2025 resulted in the rejection of their visa application, which they contested in the present case by way of a request for urgent legal protection.

The Constitutional Court acknowledged that the ministry had political discretion to withdraw an admission decision to the programme, but this discretion was subject to constitutional limits, including the prohibition of arbitrariness and the respect for human dignity. The court clarified that any withdrawal must take into account the applicants’ specific circumstances, and therefore, blanket revocations were not permissible. In addition, the court established that, pending the outcome of the visa application, Germany must resume providing support for the applicants’ stay in Pakistan, as the withdrawal of that support was arbitrary.

Following this judgment, the applicants’ case was reopened by the Higher Administrative Court of Berlin-Brandenburg, which [granted](#) them free legal assistance, finding that the Constitutional Court’s judgment supported a positive assessment under the merits test.

Importantly, the Constitutional Court estimated that the revocation decisions of both the Bridging and the Human Rights lists affected [around 640 individuals](#). Overall, as of 1 September 2025, [1,553 persons](#) have been admitted to Germany since the federal humanitarian admission programme was [introduced](#) in 2022. In September 2026, associations of German lawyers and judges [called](#) on the authorities to implement the Constitutional Court’s ruling in an open letter documenting pending cases, which include a significant number of vulnerable applicants.

Interplay of international protection with migration regimes



Spain – Incompatibility of exceptional residence permits on integration grounds with international protection applicant status

In May 2025, a new implementing regulation of the Spanish Foreigners Act came into force, which amended the rules on ‘*arraigo*’ permits, exceptional residence permits based on integration grounds. Under the new provisions, [described](#) by some civil society organisations as a “setback for asylum seekers”, applicants with a pending asylum request were no longer eligible to apply for the permit, nor could the time spent in Spain under their right to remain as applicants for international protection be taken into account as a qualifying period.





On 8 July 2026, the Supreme Court [held](#) that excluding applicants, and the time spent as applicants, from eligibility for this permit was consistent with EU law, as under Article 9(1) of the recast APD, applicants are “allowed to remain in the Member State, for the sole purpose of the procedure” and this right to remain “shall not constitute an entitlement to a residence permit”. This reflects a principle of structural separation between the international protection framework and the general immigration regime, displayed throughout EU law, including in the Students and Researchers Directive, the EU Blue Card Directive, the Seasonal Workers Directive and the Single Permit Directive, which specifically exclude applicants for international protection from their scope.

According to the [2025 Report](#) of the Forum for the Social Integration of Immigrants (FISI), an advisory body attached to the ministry responsible for migration, the new provisions, reportedly aimed at reducing the number of asylum applications, did not appear to have curbed applications in 2025. Although they declined in line with the broader EU trend, they remained above 140,000, representing the third-highest figure on record.



